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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,339	09/12/2004	Hideaki Saito	SIMTEK6976	5338

25776 7590 06/20/2005

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NEWPORT BEACH, CA 92660

EXAMINER
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OLSON, LARS A

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/711,339

Applicant(s)

SAITO, HIDEAKI

Examiner

Lars A. Olson

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12-14 is/are rejected.
- 7) ☒ Claim(s) 2 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12102004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 3 and 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. On line 2 of Claim 3, an annular sealing ring is claimed as having "a lip like upper edge". It is unclear to the examiner what the applicant is claiming as a "lip like" upper edge.
4. On line 2 of Claim 12, an annular sealing ring is claimed as having "a lip like upper edge". It is unclear to the examiner what the applicant is claiming as a "lip like" upper edge.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 4-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishi et al. (US 6,280,268).

Nishi et al. discloses the same position adjusting arrangement for an outboard drive as claimed, as shown in Figures 1-17, that is comprised of a tilt cylinder bore, defined as Part #32, a tilt piston, defined as Part #39, that reciprocates within said tilt cylinder bore and divides said cylinder bore into two axially spaced chambers, defined as Parts #35A and 35B, a piston rod, defined as Part #33, that is fixed to said tilt piston and extends through one of said chambers for connection to an outboard drive, as shown in Figure 1, a reservoir, defined as Part #63, for a hydraulic fluid circulating system, and a cavity, as shown in Figure 7, that is formed in an uppermost surface of said piston, where said cavity is spaced inwardly from the engagement of said tilt piston with said tilt cylinder bore, extends around the circumference of said piston, as shown in Figure 10, has a plurality of circumferentially spaced recesses, defined as Part #114, and is capable of receiving foreign particles and precluding their entry to mating surfaces of said tilt piston and said tilt cylinder bore.

***Allowable Subject Matter***

7. Claims 2 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 3 and 12-14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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***Conclusion***

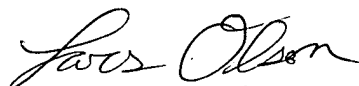
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Saito (US 6,309,264), Uppgard et al. (US 6,176,170) and Hartman et al. (US 5,980,339) disclose tilt cylinder assemblies for supporting an outboard motor.

10. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (571) 272-6685.

lo

June 13, 2005

LARS A. OLSON  
PRIMARY EXAMINER



6 / 13 / 05